

REMARKS

Applicant has carefully reviewed the Office Action of October 31, 2008, in which claims 1-11, 13, 14 and 35-41 are pending, claim 14 has been withdrawn from consideration and remaining claims have been rejected. Favorable consideration of the following remarks is respectfully requested.

Claim Amendments

Claim 1 has been amended to incorporate the elements of claim 11, which depended directly from claim 1 and which has been cancelled. Claim 35 has been amended to incorporate the elements of claim 36, which depended from claim 35 and which has now been cancelled. Claim 40 has been amended, support for which may be found, for example, in the first paragraph on page 16 of the application as filed and Figure 13. No new matter has been introduced.

Claim Rejections

Claims 1, 11, 13 and 35-41 were rejected under 35 U.S.C. §103(a) as being unpatentable over Noone et al., U.S. Patent No. 6,591,472, in view of Benjamin, U.S. Patent No. 6,245,053. Applicant respectfully traverses this rejection.

Claim 1 has been amended to include the elements of claim 11, which depended from it. The Examiner argues, on page 3, that "Benjamin shows that it is known to carry out a method wherein a second polymer segment is placed over a first polymer segment and a braid layer, wherein the second polymer segment extends distally and proximally of the cutting position" and in regard to claim 11 that "Noone shows the process as claimed as discussed in the rejection of claim 1 above, including a method wherein the second polymer segment comprises in combination a proximal segment configured to overlay the braid layer, an intermediate segment configured to overlay the first polymer segment, and a distal segment configured to form a distal tip (Figure 8, element 75, 145), meeting applicants claim." Applicant respectfully disagrees.

Element 75 is depicted in Figure 8 as proximal to the first polymer segment 80 and is described that way in column 9, lines 17-20: "The distal outer layer 80 is formed of a material of first hardness, and the proximal outer layer 75 is formed preferably of a material of second hardness." Likewise, element 145 is a distal tip that is distal to first polymer segment 80. Thus Figure 8 does not show an intermediate segment configured to overlay first polymer segment 80. Where a layer is shown overlaying the first polymer segment 80, such as in Figure 6, that layer is

removed prior to the attachment of a distal tip. Applicant therefore disagrees that Noone et al. teach the elements it is asserted in the Office Action to teach.

Further, modifying Noone et al. in view of Benjamin would not produce the claimed invention. Benjamin teaches using a sleeve 120 to attach a distal soft tip 40 to the distal end 35 of catheter shaft 30. See column 7, lines 50-67. Benjamin teaches that the sleeve is distinct from the distal soft tip: "Preferably, the distal soft tip 40 extends about 3.5 mm +/- 0.50 mm distally from the distal end of the sleeve 120 and extends proximally within the sleeve 120 sufficiently so that its proximal end is within the sleeve 120." Column 7, lines 60-64. It can therefore be seen that modifying Noone et al. in view of Benjamin would not result in a method of forming a catheter "wherein the second polymer segment...a distal segment configured to form a distal tip" as claimed in claim 1.

Applicant further notes that element 130 of Benjamin suffers from this defect as well. Further, element 130 is a heat shrink tube that is removed during manufacture as shown in Figs. 8 and 9 and therefore cannot form the distal tip for this reason as well.

Therefore, when all words in claim 1 are properly considered, it can be seen that Noone et al. in view of Benjamin does not produce the invention of claim 1. Applicant therefore submits that claim 1 is in condition for allowance. For at least the reason that claim 13 depends from claim 1 and contains additional elements, Applicant submits that this claim is in condition for allowance as well. Claim 11 has been cancelled.

Claim 35 has been amended to incorporate the elements of claim 36 and recites "forming a portion of the polymeric outer segment into a distal tip for the catheter." Therefore, for the reasons discussed above with respect to claim 1, Applicant submits that this claim is also in condition for allowance. As claims 37-39 depend from claim 35 and contain additional elements, Applicant submits that these claims are also in condition for allowance. Claim 36 has been cancelled.

Claim 40 has been amended to recite "forming a portion of the polymeric outer segment into a distal tip for the catheter that is free from the lubricious layer and the braid layer." Therefore, for the reasons discussed above with respect to claim 1, Applicant submits that this claim is also in condition for allowance. As claim 41 depends from claim 40 and contains additional elements, Applicant submits that this claim is also in condition for allowance.

Claims 2-5, 7 and 9-10 were rejected under 35 U.S.C. §103(a) as being unpatentable over Noone et al. and Benjamin, in view of Wilson, U.S. Patent No 5,951,929. Claim 6 was rejected under 35 U.S.C. §103(a) as being unpatentable over Noone et al., Benjamin and Wilson, further in view of Zadno-Azizi, U.S. Patent Pub. No. 2004/0015150. Claim 8 was rejected under 35 U.S.C. §103(a) as being unpatentable over Noone et al. and Benjamin, further in view of Ashiya, U.S. Patent No 5,947,925. Applicant respectfully traverses these rejections.

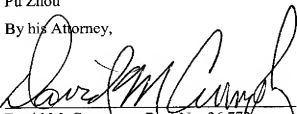
For at least the reason that these claims depend from claim 1, which Applicant submits is allowable, and contain additional elements, Applicant submits that these claims are also in condition for allowance. None of the references remedy the shortcomings noted in Noone et al. and Benjamin noted above.

Reexamination and reconsideration are respectfully requested. It is respectfully submitted that all pending claims are now in condition for allowance. Issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

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By his Attorney,



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